

ORDINANCE NO.2020-029

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW ONLY RESIDENTIAL USES, WHERE RESIDENTIAL AND COMMERCIAL USES ARE REQUIRED; ALLOW RESIDENTIAL USE ON THE GROUND FLOOR, WHERE RESIDENTIAL USES ARE ALLOWED ABOVE THE GROUND LEVEL ONLY; ALLOW 17 UNITS WITH AREA OF 615 SQUARE FEET, WHERE AREA OF 850 SQUARE FEET IS THE MINIMUM REQUIRED FOR 90% OF THE UNITS; ALLOW 5 FEET FRONT SETBACK FOR BUILDING WALL FACING PALM AVENUE TO BE USED AND EXPAND A SIDEWALK AND 3 FEET FOR THE BALCONIES ABOVE THE GROUND FLOOR, 5.66 FEET SETBACK FOR BUILDING WALL FACING WEST 23 STREET PROVIDED A SIDEWALK IS BUILT ALONG WEST 23 STREET, AND 4 FEET FOR THE BALCONIES ABOVE THE GROUND FLOOR, WHERE 10 FEET BUILT-TO-LINE IS REQUIRED FOR ALL; ALLOW 18 PARKING SPACES, WHERE 41 PARKING SPACES ARE REQUIRED PROVIDED 4 ON-STREET PARKING SPACES ARE BUILT ON WEST 23 STREET; ALLOW 13% PERVIOUS AREA, WHERE 30% IS THE MINIMUM REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-1630.1, 98-1630.2, 98-1630.3(e)(1), 98-2189(16)a., 98-2056(b)(1). **PROPERTY LOCATED AT 2290 PALM AVENUE, HIALEAH, ZONED C-2 (LIBERAL RETAIL COMMERCIAL DISTRICT), LOCATED IN NBD (NEIGHBORHOOD BUSINESS DISTRICT) AREA 1**; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of June 24, 2020 recommended approval of this ordinance; and

WHEREAS, the developer has proffered a parking management plan, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: A variance permit is hereby granted to allow only residential uses, where residential and commercial uses are required, contra to Hialeah Code of Ordinances § 98-1630.1 that as relevant provides: “No building or land shall be used and no building shall be hereinafter erected, constructed, reconstructed or structurally altered that is designed, arranged or intended to be used or occupied for any purpose, unless it provides residential use and one or more of the principal commercial uses...” ; allow residential use on the ground floor, where residential uses are allowed above the ground level only, contra to Hialeah Code of Ordinances § 98-1630.2 that as relevant provides: “Residential uses shall be allowed above the ground level only.”; allow 17 units with area of 615 square feet, where area of 850 square feet is the minimum required for 90% of the units, contra to Hialeah Code of Ordinances § 98-1630.2 that as relevant provides: “Each residential unit shall have minimum of 850 square feet, except that ten percent of residential units may have a minimum of 600 feet for studios or one bedroom units.”; allow 5 feet front setback for building wall facing Palm Avenue to be used and expand a sidewalk and 3 feet for the balconies above the ground floor, allow 5.66 feet setback for building wall facing West 23 Street provided a sidewalk is built along West 23 Street, and 4 feet for the balconies above the ground floor, where 10 feet built-to-line is required for all, contra to Hialeah Code of Ordinances § 98-1630.3(e)(1) that as relevant provides: “Front setback and street side setback. For the pedestal or base of a building, a minimum setback of ten feet, built-to-line, or as provided in the urban design plan.”; allow 18 parking spaces, where 41 parking spaces are required provided 4 on-street parking spaces are built on west 23 street, contra to Hialeah Code of Ordinances § 98-2189(16)a. that provides: “Residential uses. Parking for residential uses shall be two parking spaces for one or two bedrooms and one-half parking spaces for each additional bedroom. An additional one-quarter parking space for each dwelling unit shall be provided for guest parking. The guest parking requirement may be satisfied, in whole or in part, by the operation of valet parking services for residential guests, approved by the city.”; allow 13% pervious area, where 30% is the minimum required, contra to Hialeah Code of Ordinances § 98-

2056(b)(1) that provides: “a minimum of 30 percent of the net residential land area shall be maintained in landscaped open space, which space may include recreation areas, swimming pools, and setback areas.”

Section 2: Property located at 2290 Palm Avenue, Hialeah, zoned C-2 (Liberal Retail Commercial District) located in NBD (Neighborhood Business District) Area 1 and legally described as follows:

Lots 10, 11, 12 and 13, of Block 151, of TENTH ADDITION TO THE TOWN OF HIALEAH, according to the Plat thereof, as recorded in Plat Book 8, at Page 100, of the Public Records of Miami-Dade County, Florida

Section 3: **Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: **Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.


Section 5: **Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

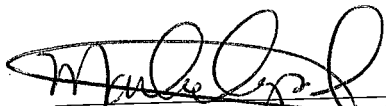
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.


PASSED and ADOPTED this 27 day of July, 2020.


Paul B. Hernandez
Council President

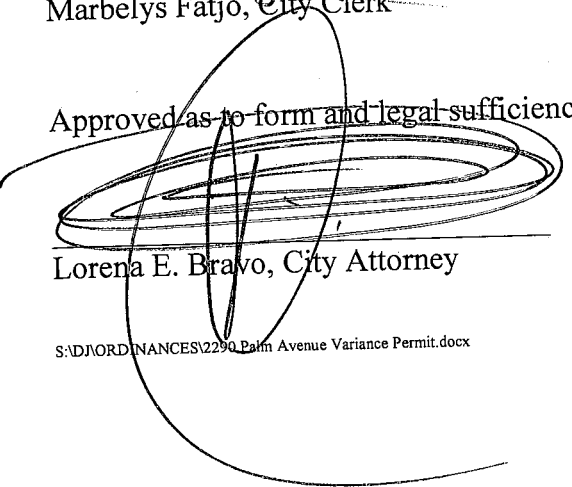
Attest:

Approved on this 10 day of August, 2020.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

Ordinance was adopted by 6-0-1 vote with Councilmembers, Cue-Fuente, De la Rosa, Hernandez, Garcia-Roves, Perez, and Zogby, voting "Yes" and with Council Member Tundidor absent.